

fully satisfy such requirement within the time prescribed for reporting such information must, in addition to any criminal penalty provided by law, pay a penalty of \$1000 for each such failure. Information reporting requirements promulgated under the authority of sections 937(c) and 7654(e) include the requirement for an individual to file Form 8898, "Statement for Individuals who Begin or End Bona Fide Residence in a U.S. Possession," under §1.937-1(h) of this chapter, to report that he or she became or ceased to be a bona fide resident of a possession.

(b) *Manner of payment.* The penalty set forth in paragraph (a) of this section must be paid in the same manner as tax upon the issuance of a notice and demand for the penalty.

(c) *Reasonable cause.*—(1) The penalty set forth in paragraph (a) of this section will not apply if it is established to the satisfaction of the *Commissioner* that the failure to file the information return or furnish the information within the prescribed time was due to reasonable cause and not to willful neglect. An individual who wishes to avoid the penalty must make an affirmative showing of all facts alleged as a reasonable cause for failure to file the information return on time, or furnish the information on time, in the form of a written statement containing a declaration that it is made under penalties of perjury. This statement must be filed with Internal Revenue Service Center where Form 8898 must be filed. In determining whether there was reasonable cause for failure to furnish the required information, account will be taken of the fact that the individual was unable to furnish the required information in spite of the exercise of ordinary business care and prudence in his effort to furnish the information. An individual will be considered to have exercised ordinary business care and prudence in his effort to furnish the required information if he made reasonable efforts to furnish the information but was unable to do so because of a lack of sufficient facts on which to make a proper determination.

(d) *Effective/applicability date.* This section applies to taxable years ending after April 9, 2008.

[T.D. 9391, 73 FR 19376, Apr. 9, 2008; 73 FR 27728, May 14, 2008]

§ 301.6689-1T Failure to file notice of redetermination of foreign tax (temporary).

(a) *Application of civil penalty.* If a foreign tax redetermination was made with respect to taxes for which the taxpayer previously claimed the foreign tax credit, and the taxpayer failed to notify the Service on or before the date prescribed in regulations under section 905(c) or in regulations under section 404A(g)(2) for giving notice of a foreign tax redetermination, then, unless paragraph (d) of this section applies, there shall be added to the deficiency attributable to such redetermination an amount determined under paragraph (b) of this section. Subchapter B of chapter 63 of the Internal Revenue Code (relating to deficiency proceedings) shall not apply with respect to the assessment of the amount of the penalty.

(b) *Amount of penalty.* The amount of the penalty shall be equal to—

(1) Five percent of the deficiency if the failure is for not more than one month, plus

(2) An additional five percent of the deficiency for each month (or fraction thereof) during which the failure continues, but not to exceed in the aggregate twenty-five percent of the deficiency. If the penalty imposed under paragraph (a) of this section applies, then the penalty imposed under section 6653(a), relating to failure to pay by reason of negligent or intentional disregard of rules and regulations, shall not apply.

(c) *Foreign tax redetermination defined.* For purposes of this section, a foreign tax redetermination is any redetermination for which a notice is required under section 905(c) and the regulations thereunder, or section 404A(g)(2) and the regulations thereunder.

(d) *Reasonable cause.* The penalty set forth in this section shall not apply if it is established to the satisfaction of the Service that the failure to file the notification within the prescribed time was due to reasonable cause and not

due to willful neglect. An affirmative showing of reasonable cause must be made in the form of a written statement that sets forth all the facts alleged as reasonable cause for the failure to file the notification on time and that contains a declaration by the taxpayer that the statement is made under the penalties of perjury. This statement must be filed with the service center in which the notification was required to be filed. The taxpayer must file this statement with the notice required under section 905(c) and the regulations thereunder or section 404A(g)(2) and the regulations thereunder. If the taxpayer exercised ordinary business care and prudence and was nevertheless unable to file the notification within the prescribed time, then the delay will be considered to be due to reasonable cause and not willful neglect.

(e) *Effective/applicability date*—(1) *In general.* This section applies to foreign tax redeterminations (as defined in § 1.905-3T(c) of this chapter) occurring in taxable years of United States taxpayers beginning on or after November 7, 2007, and in the three immediately preceding taxable years. For corresponding rules applicable to foreign tax redeterminations occurring in earlier taxable years of United States taxpayers, see 26 CFR 301.6689-1T (as contained in 26 CFR part 301, revised as of April 1, 2007).

(2) *Expiration date.* The applicability of this section expires on or before November 5, 2010.

[T.D. 8210, 53 FR 23618, June 23, 1988, as amended by T.D. 9362, 72 FR 62788, Nov. 7, 2007]

§ 301.6690-1 Penalty for fraudulent statement or failure to furnish statement to plan participant.

(a) *Penalty.* Any plan administrator required by section 6057(e) and § 301.6057-1(e) to furnish a statement of deferred vested retirement benefit to a plan participant is subject to a penalty of \$50 in each case in which the administrator (1) willfully fails to furnish the statement to the participant in the manner, at the time, and showing the information required by section 6057(e) and § 301.6057-1(e), or (2) willfully furnishes a false or fraudulent statement

to the participant. The penalty shall be assessed and collected in the same manner as the tax imposed on employers under the Federal Insurance Contributions Act.

(b) *Effective date.* This section shall take effect on September 2, 1974.

[T.D. 7561, 43 FR 38007, Aug. 25, 1978]

§ 301.6692-1 Failure to file actuarial report.

(a) *Penalty.* In each case in which the plan administrator (within the meaning of section 414(g)) of a defined benefit plan to which the minimum funding standards of section 412 apply fails to file the actuarial report described in section 6059 and § 301.6059-1 within the time prescribed, the plan administrator shall pay a penalty of \$1,000. A failure to provide a material item of information called for in the actuarial report is considered a failure to file the report. For this purpose, the signature of an enrolled actuary (see § 301.6059-1(d)) is considered a material item of information.

Further, for any report filed for a plan year ending after January 25, 1982, if the actuary seeks to materially qualify a statement required by § 301.6059-1(c) (4) or (5) there is a failure to provide a material item of information called for in the report. For rules relating to statements not considered as materially qualifying the required statements, see § 301.6059-1(d).

(b) *Failure to make actuarial valuation.* Section 412(c)(9) and the regulations thereunder prescribe the time for making an actuarial valuation of a defined benefit plan. For purposes of this section, the failure to base information called for in the actuarial report upon an actuarial valuation of the plan which is made within the time prescribed by section 412(c)(9) and the regulations thereunder is considered a failure to file the actuarial report.

(c) *Showing of reasonable cause.* The penalty imposed by this section does not apply if it is established to the satisfaction of the appropriate district director or the director of the Internal Revenue Service Center at which the actuarial report is required to be filed that the failure to file the report was due to reasonable cause. An affirmative showing of reasonable cause must be